

AMENDED IN ASSEMBLY JULY 10, 2003

AMENDED IN ASSEMBLY JUNE 19, 2003

AMENDED IN SENATE MAY 13, 2003

AMENDED IN SENATE MAY 5, 2003

SENATE BILL

No. 149

**Introduced by Senator McPherson
(Principal coauthor: Senator Perata)**

*(Coauthors: Assembly Members Calderon, Negrete McLeod, and
Salinas)*

February 7, 2003

~~An act to amend Sections 1, 7, 9, 101, 133, 202, 251, 252, 253, and 431 of, to amend the heading of Article 6 (commencing with Section 671) of Chapter 3 of Part 5 of, to add Section 202.5 to, to add Chapter 3.5 (commencing with Section 685) to Part 5 of, to repeal Sections 136, 203, 204, 205, 671, and 673 of, to repeal Chapter 2 (commencing with Section 221) of Part 3 of, and to repeal Article 2 (commencing with Section 471) of Chapter 8 of Part 4 of, the Monterey~~ *An act to amend Section 431 of, to amend the heading of Article 6 (commencing with Section 671) to Chapter 3 of Part 5 of, to add Chapter 3.5 (commencing with Section 685) to Part 5 of, to repeal Sections 671 and 673 of, and to repeal Article 2, (commencing with Section 471) of Chapter 8 of Part 4 of, the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977), relating to water.*

LEGISLATIVE COUNSEL'S DIGEST

SB 149, as amended, McPherson. Monterey Peninsula Water Management District.

(1) Existing law, the Monterey Peninsula Water Management District Law, establishes the Monterey Peninsula Water Management District and provides for its powers and purposes. ~~The district law provides for the election of 5 members and the appointment of 2 members to the district's board of directors.~~ The district law requires the board of the district to call an election for the voters of the district to approve projects proposed to be undertaken by the board. The district law authorizes the board to issue revenue bonds in accordance with certain provisions of law, and subject to approval by district voters.

~~This bill would change the title of the law to the Monterey Peninsula Water Board Law. The bill would provide for a 7-person appointed board of elected representatives from each of the cities within the district, appointed by the mayor of each city, and one representative from the unincorporated area. The requirements of the bill to establish an appointed board would impose a state-mandated local program. The bill would provide that each board member has one vote, except that, upon the call and request of any board member present and able to vote, a weighted voting formula would be applied to any vote to be taken by the board.~~

~~The bill would repeal the provisions that require an election to be held to approve projects proposed to be undertaken by the board, and would require, instead, the board to hold a hearing to consider public comments regarding a proposed project. The bill would authorize each board member to vote in favor of the issuance of the board, by ordinance, to issue revenue bonds, subject to an authorization to do so by his or her appointing power but without voter approval, to pay the costs of constructing facilities for the production, storage, transmission, or treatment of water.~~

~~The bill would become operative on the date on which the Secretary of State notifies the Monterey Peninsula Water Management District that the United States Attorney General has "precleared," in accordance with a certain federal law, the changes that the bill would make with regard to the manner of selecting board members make that ordinance subject to referendum, thereby imposing a state-mandated located programs by imposing election duties on county officials.~~

~~The bill would impose a state-mandated local program by imposing requirements on the district.~~

~~The bill would dissolve the board of the district on January 1, 2007, under certain circumstances.~~



(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 1 of the Monterey Peninsula Water~~
2 ~~Management District Law (Chapter 527 of the Statutes of 1977)~~
3 ~~is amended to read: Section. 1. This act shall be known and may~~
4 ~~be cited as the Monterey Peninsula Water Board Law.~~

5 ~~SEC. 2. Section 7 of the Monterey Peninsula Water~~
6 ~~Management District Law (Chapter 527 of the Statutes of 1977)~~
7 ~~is amended to read:~~

8 ~~Sec. 7. "District" means the Monterey Peninsula Water~~
9 ~~Board.~~

10 ~~SEC. 3. Section 9 of the Monterey Peninsula Water~~
11 ~~Management District Law (Chapter 527 of the Statutes of 1977)~~
12 ~~is amended to read:~~

13 ~~Sec. 9. "Board" and "board of directors" means the~~
14 ~~governing board of directors of the district appointed pursuant to~~
15 ~~Section 202.~~

16 ~~SEC. 4. Section 101 of the Monterey Peninsula Water~~
17 ~~Management District Law (Chapter 527 of the Statutes of 1977)~~
18 ~~is amended to read:~~

19 ~~Sec. 101. There is hereby created a district known and~~
20 ~~designated as the Monterey Peninsula Water Board.~~

21 ~~SEC. 5. Section 133 of the Monterey Peninsula Water~~
22 ~~Management District Law (Chapter 527 of the Statutes of 1977)~~
23 ~~is amended to read:~~

24 ~~Sec. 133. The Monterey Peninsula Water Board is hereby~~
25 ~~declared to be and is a body politic and corporate, and as such shall~~
26 ~~have, among others, the powers enumerated in this law and such~~
27 ~~other powers as the law may provide.~~

~~SEC. 6. Section 136 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is repealed.~~

~~SEC. 7. Section 202 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is amended to read:~~

~~Sec. 202. (a) The board shall consist of seven members selected in accordance with this section.~~

~~(b) The board shall consist of one elected representative from each of the cities within the district (Carmel-by-the-Sea, Del Rey Oaks, Monterey, Pacific Grove, Sand City, and Seaside), and one elected representative from the unincorporated area within the district's boundary.~~

~~(c) The mayor of each city within the district shall appoint a member to the board. The appointed board member shall be either the mayor or a city council member of the appointing entity.~~

~~(d) For the unincorporated area, the board member shall be an elected member of the county board of supervisors who represents most of the unincorporated population within the district boundary.~~

~~(e) Each member of the board shall serve at the pleasure of the appointing power.~~

~~SEC. 8. Section 202.5 is added to the Monterey Peninsula Water District Law (Chapter 527 of the Statutes of 1977), to read:~~

~~Sec. 202.5. While serving on the board, each board member shall exercise his or her independent judgment on behalf of the interests of the district's residents, property owners, and the public as a whole and not solely the interests of the appointing power. This section does not require the abstention of any member on any matter, nor does it create a right of action for any person.~~

~~SEC. 9. Section 203 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is repealed.~~

~~SEC. 10. Section 204 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is repealed.~~

~~SEC. 11. Section 205 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is repealed.~~

1 ~~SEC. 12. Chapter 2 (commencing with Section 221) of Part~~
2 ~~3 of the Monterey Peninsula Water Management District Law~~
3 ~~(Chapter 527 of the Statutes of 1977) is repealed.~~

4 ~~SEC. 13. Section 251 of the Monterey Peninsula Water~~
5 ~~Management District Law (Chapter 527 of the Statutes of 1977)~~
6 ~~is amended to read:~~

7 ~~Sec. 251. The board shall hold its initial meeting of appointed~~
8 ~~members as soon as possible after the operative date of this act. The~~
9 ~~board shall elect one of its members chairperson, and shall~~
10 ~~thereupon provide for the time and place of holding its meetings~~
11 ~~and the manner in which special meetings may be called upon~~
12 ~~adequate notice to the public. At the first meeting in the month of~~
13 ~~January of each year, or at the next meeting following the creation~~
14 ~~of a vacancy in the office of chairperson, the board shall choose~~
15 ~~one of its members chairperson and one of its members vice~~
16 ~~chairperson.~~

17 ~~SEC. 14. Section 252 of the Monterey Peninsula Water~~
18 ~~Management District Law (Chapter 527 of the Statutes of 1977)~~
19 ~~is amended to read:~~

20 ~~Sec. 252. The chairperson of the board shall preside at all~~
21 ~~meetings of the board. In the case of the absence or inability to act~~
22 ~~of the chairperson, the vice chairperson shall preside. In the case~~
23 ~~of the absence or inability to act of the chairperson and vice~~
24 ~~chairperson, the members present shall by a resolution entered in~~
25 ~~the records of the board, select one of their number to act as~~
26 ~~temporary chairperson. Any member of the board may administer~~
27 ~~oaths when necessary in the performance of his or her official~~
28 ~~duties.~~

29 ~~SEC. 15. Section 253 of the Monterey Peninsula Water~~
30 ~~Management District Law (Chapter 527 of the Statutes of 1977)~~
31 ~~is amended to read:~~

32 ~~Sec. 253. (a) A majority of the members of the board shall~~
33 ~~constitute a quorum for the transaction of business. The board shall~~
34 ~~act only by ordinance, resolution, or motion. On all ordinances, the~~
35 ~~roll shall be called and the ayes and noes recorded in the records~~
36 ~~of the board. Resolutions and motions may be adopted by voice~~
37 ~~vote, but on demand of any member the roll shall be called. Except~~
38 ~~as otherwise provided in this act, no ordinance, resolution, or~~
39 ~~motion shall be passed nor become effective without the~~
40 ~~affirmative vote of the majority of the members of the board.~~

~~(b) Subject to subdivision (c), each member has one vote.~~

~~(c) (1) Upon the call and request of any board member present and able to vote, a weighted voting formula shall apply for any vote to be taken by the board, with each member having one or more votes based upon the population of the city or unincorporated area within the district boundary as follows:~~

Population	No. of votes
0 to 9,999	1
10,000 to 24,999	2
25,000 to 49,999	3
50,000 to 74,999	4
75,000 to 99,999	5
100,000 and above	6

~~(2) For the purpose of determining the population within a city or unincorporated area within the district, the more recent federal census or Department of Finance population estimate shall be used.~~

~~SEC. 16.—~~

SECTION 1. (a) The Legislature finds and declares that there is a statewide housing crisis. Within the boundaries of the Monterey Peninsula Water Management District, there is an especially critical shortage of affordable housing. The augmentation of water supplies for the benefit of that area will facilitate the construction of additional housing. In particular, the construction of affordable housing in the area encompassed by that district is a top priority for the Legislature.

(b) The Monterey Peninsula Water Management District Board shall be dissolved on January 1, 2007, if an environmental impact report has not been prepared and approved on or before that date with regard to the acquisition of more than 10,700 acre-feet of water on behalf of that district.

SEC. 2. Section 431 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is amended to read:

Sec. 431. (a) The board, by resolution, may establish improvement zones within the district without reference to the boundaries of other zones, setting forth in that resolution

descriptions thereof by metes and bounds and identifying each zone by a zone number, and institute zone projects for the specific benefit of those zones. The board, by resolution, may amend the boundaries by annexing property to or by withdrawing property from these zones or may divide existing zones into two or more zones or may superimpose a new or amended zone or zones already in existence, setting forth in that resolution descriptions of the amended, divided, or superimposed zones by metes and bounds and identifying each zone by a zone number. Any territory in the district may be included within one or more improvement zones.

(b) After the board approves a project, the boundaries of the zone or zones approving the project shall not be changed, except as otherwise provided in this law.

~~SEC. 17.—~~

(c) *Prior to approving a zone project, the board shall hold a hearing, at which public comments regarding the project shall be considered.*

SEC. 3. Article 2 (commencing with Section 471) of Chapter 8 Part 4 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is repealed.

~~SEC. 18.—~~

SEC. 4. The heading of Article 6 (commencing with Section 671) of Chapter 3 of Part 5 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is amended to read:

Article 6. Benefit Assessments

~~SEC. 19.—~~

SEC. 5. Section 671 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is repealed.

~~SEC. 20.—~~

SEC. 6. Section 673 of the Monterey Peninsula Water Management District Law (Chapter 527 of the statutes of 1977) is repealed.

~~SEC. 21.—~~

1 SEC. 7. Chapter 3.5 (commencing with Section 685) is added
2 to Part 5 of the Monterey Peninsula Water Management District
3 Law (Chapter 527 of the Statutes of 1977), to read:

4
5 CHAPTER 3.5. REVENUE BONDS
6

7 ~~Sec. 685. (a) (1) Subject to subdivision (b), the board, by~~
8 ~~ordinance, adopted by the affirmative vote of the majority of the~~
9 ~~members of the board who also represent a majority of the~~
10 ~~weighted votes calculated pursuant to subdivision (c) of Section~~
11 ~~253,~~

12 *Sec. 685. (a) (1) The board by ordinance adopted by the*
13 *affirmative vote of the majority of the members of the board may*
14 *issue revenue bonds pursuant to this chapter to pay the costs of*
15 *acquiring or constructing facilities for the production, storage,*
16 *transmission, or treatment of water.*

17 (2) The board need not conduct an election or otherwise secure
18 the approval of the voters to carry out this chapter.

19 ~~(b) No board member may vote in favor of the issuance of~~
20 ~~revenue bonds pursuant to this chapter in the absence of the~~
21 ~~adoption, by majority vote, of an ordinance by the appointing~~
22 ~~power of that board member that expressly authorizes that board~~
23 ~~member to do so.~~

24 ~~(c)~~

25 (b) The ordinance described in subdivision (a) shall describe in
26 general terms the project or projects to be financed by the revenue
27 bonds, the maximum amount of bonds proposed to be issued, and
28 the anticipated sources of revenue to redeem the bonds.

29 ~~(d)~~

30 (c) The board may issue revenue bonds pursuant to this chapter
31 to generate funds to pay for the acquisition and construction of the
32 facilities described in subdivision (a) and related costs, including
33 engineering, inspection, legal and fiscal agents' fee, costs of the
34 issuance and sale of the bonds, working capital, reserve fund, and
35 bond interest estimated to accrue during the construction period
36 and for a period not to exceed 12 months after completion of
37 construction.

38 ~~(e)~~

1 (d) The proceeds of the revenue bonds may be used only for the
2 project provided for in the indenture pursuant to which the revenue
3 bonds are issued.

4 ~~(f)–~~

5 (e) The revenue bonds shall be secured by a pledge of and lien
6 upon the revenues of the project described in the indenture
7 authorizing the issuance of the bonds. The revenues of the project
8 include revenues from improvements or additions to, or
9 extensions of the project. The revenue bonds may also be secured
10 by additional revenues, including existing funds of the district, and
11 other sources, to the extent set forth in the indenture.

12 ~~(g)–~~

13 (f) If any of the revenue bonds are outstanding and unpaid, the
14 revenues and interest thereon shall not be used for any purpose not
15 authorized by the indenture, unless the bondholders authorize the
16 use for that purpose pursuant to the provisions of the indenture.

17 ~~(h)–~~

18 (g) Revenue bonds issued pursuant to this chapter, and
19 contracts or obligations entered into to carry out the purposes for
20 which bonds are issued that are payable in whole or in part from
21 the proceeds of the bonds, shall not constitute a debt, liability, or
22 obligation of any of the public agencies who are parties to the
23 agreement creating that entity.

24 ~~(i)–~~

25 (h) All revenue bonds issued pursuant to this chapter shall
26 include a recital on their face that neither the payment of the
27 principal or any part thereof, nor any interest thereon, constitutes
28 a debt, liability, or obligation of any of the district.

29 (i) *An ordinance adopted pursuant to subdivision (a) is subject*
30 *to referendum in accordance with Section 9341 of the Elections*
31 *Code.*

32 ~~SEC. 22.—~~

33 SEC. 8. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 a local agency or school district has the authority to levy service
36 charges, fees, or assessments sufficient to pay for the program or
37 level of service mandated by this act, within the meaning of
38 Section 17556 of the Government Code.

39 ~~SEC. 23.—This act shall become operative on the date on which~~
40 ~~the Secretary of State notifies the Monterey Peninsula Water~~

1 ~~Management District that the United States Attorney General has~~
2 ~~precleared Section 202 of the Monterey Peninsula Water~~
3 ~~Management District Law, as amended by this act, pursuant to~~
4 ~~Section 1973c of Title 42 of the United States Code.~~

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